

## Records Maintenance and Release

### 810.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of office records. Protected information is separately covered in the Protected Information Policy.

### 810.2 POLICY

The Storey County Sheriff's Office is committed to providing public access to records in a manner that is consistent with the Nevada Open Records Act (NRS 239.001 et seq.).

### 810.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Sheriff shall designate a Custodian of Records. The responsibilities of the Custodian of Records include, but are not limited to:

- (a) Managing the records management system for the Office, including the retention, archiving, release and destruction of office public records (NRS 239.124; NRS 239.125).
- (b) Maintaining and updating the office records retention schedule including:
  - 1. Identifying the minimum length of time the Office must keep records.
  - 2. Identifying the office division responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of office public records as reasonably necessary for the protection of such records.
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring a current schedule of fees for public records as allowed by law is available (NRS 239.052).
- (g) Preparing and making available to the public a description of the basic rights of a person who requests public information, the responsibilities of the Office and the procedures, including the cost of inspecting or obtaining copies (NRS 239.052).

### 810.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any office member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

#### 810.4.1 REQUESTS FOR RECORDS

The processing of requests for any record is subject to the following:

- (a) All requests to inspect or receive a copy of records should be in writing (NRS 239.0107).

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- (b) The record request shall be responded to within five business days by (NRS 239.0107):
  - 1. Providing a copy of the record.
  - 2. Providing a written response to the requester that the record requested is not in legal custody of the Office and provide the name and address of the governmental entity that has legal custody of the record, if known.
  - 3. Providing a written response to the requester that additional time is needed to make the record available and provide the date and time when the record will be available.
  - 4. Denying the request, in writing, to include the citation to the specific statute or other legal authority that makes the record confidential.
    - (a) If the denial is subject to a judicial or administrative proceeding, the Office has the burden of proving by a preponderance of the evidence that the record is confidential (NRS 239.0113).
- (c) The Office is not required to create records that do not exist.
- (d) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released (NRS 239.010).
  - 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the office-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
- (e) A requester may request and receive a copy of a record in any medium in which the public record is readily available (NRS 239.010).

### **810.5 RELEASE RESTRICTIONS**

Generally, all records are public unless declared confidential by law (NRS 239.010). Examples of release restrictions include, but are not limited to:

- (a) Personal identifying information, including an individual's photograph, Social Security and driver identification number, name, address and telephone number, and medical or disability information that is contained in any driver license record, motor vehicle record or any office record, including traffic collision reports are restricted except as authorized by the Office, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- (b) Home address and photograph of a deputy (NRS 289.025).
- (c) Member personal medical records deemed confidential by state and federal law.
- (d) Identity of an informer (NRS 49.335).
- (e) Victim information (NRS 200.3771; NRS 200.3772; NRS 200.3773; NRS 178.5691).

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- (f) Opinions, recommendations or advice about agency policies that are part of a deliberative process may be exempt from disclosure.
- (g) Confidential information involving intelligence information, information that would endanger the safety of any person involved or information that would endanger the successful completion of the investigation or a related investigation.
- (h) Reports involving child abuse (NRS 432B.280) and adult abuse (NRS 200.5095).
- (i) Certain concealed firearms permit information of an applicant (NRS 202.3662).
- (j) The identity of a person making a report regarding cruelty to animals (NRS 574.053).
- (k) Attorney-client communications (NRS 49.095).
- (l) Any other information that may be appropriately denied by state and federal law.

### **810.6 SUBPOENAS AND DISCOVERY REQUESTS**

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, District Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Office so that a timely response can be prepared.

### **810.7 RELEASED RECORDS TO BE MARKED**

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the office name and to whom the record was released.

Each audio/video recording released should include the office name and to whom the record was released.

### **810.8 SEALED RECORD ORDERS**

Sealed record orders received by the Office shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall seal such records as ordered by the court. Records may include, but are not limited to, a record of arrest, investigation, detention or conviction. Once sealed, members shall respond to any inquiry as though the record did not exist (NRS 179.275).

### **810.9 SECURITY BREACHES**

Members who become aware that any Storey County Sheriff's Office system containing personal information may have been breached should notify the Custodian of Records as soon as practicable.

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The Custodian of Records shall ensure the required notice is given to any resident of this state whose unsecured personal information is reasonably believed to have been acquired by an unauthorized person (NRS 603A.220).

Notice shall be given in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of the Storey County Sheriff's Office or any measure necessary to determine the scope of the breach and restore the reasonable integrity of the system data. Notice may be delayed if notification will impede a criminal investigation but shall be made once there is a determination that the notification will not compromise the investigation (NRS 603A.220).

For the purposes of the notice requirement, personal information includes an individual's first name or first initial and last name in combination with any one or more of the following (NRS 603A.040):

- (a) Social Security number
- (b) Driver license number or driver authorization number or identification card number
- (c) Full account number, credit card number or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account.
- (d) A user name, unique identifier or electronic mail address in combination with a password, access code or security question and answer that would permit access to an online account.

If the breach reasonably appears to have been made to protected information covered in the Protected Information Policy, the Custodian of Records should promptly notify the appropriate member designated to oversee the security of protected information (See the Protected Information Policy).